



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

O'MELVENY & MYERS LLP
IP&T CALENDAR DEPARTMENT LA-1118
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

COPY MAILED

NOV 24 2008

In re Application of
Stuart B. BERMAN
Application No. 09/330,755
Filed: June 11, 1999
Attorney Docket No. 895,080-008

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 28, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2416 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



Michelle R. Eason
Paralegal Specialist
Office of Petition

Cc: **JENNIFER M. PASCUA**
O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
SUITE 1700
NEWPORT BEACH, CA 92660-6429